



December 5, 1997

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Decommissioning Program Plan

Dear Steve and John,

In your letter of November 3, 1997 you requested certain clarification of issues related to the Decommissioning Program Plan (DPP), which was evaluated as unapproveable in the EPA and CDPHE letter dated October 6. We subsequently met to discuss these issues on the DPP and similar issues on the Building 779 Decommissioning Operations Plan (DOP). Our response to the issues raised is provided below:

1 Restructure process and documents

DOE unilaterally removed the DPP from the consultative work group process. At the advice of your attorneys, you have proposed significant changes from the Building Disposition process negotiated and defined in RFCA. These changes are:

- that the DPP be a general process document with little detail,
- that development of RSOP's and general procedures be deferred until more D&D experience is gained, and
- that all D&D actions in the next few years be conducted as PAMs, IM/IRAs or DOPs.

Response: CDPHE and EPA agree to restructure the process until the track record supports the development of general procedures/RSOP's. The present lack of general procedures/RSOP's does not, however, relieve DOE of the responsibility for preparing specific detailed procedures for decommissioning prior to approval of specific actions. A general DPP defining the overall D&D process is acceptable, if project details are provided elsewhere in enforceable documents. D&D actions over the next two years can be conducted under PAMs, IM/IRAs or DOPs; although CDPHE is concerned that duplication of effort will result. Our expectation for the process to be followed is shown in Attachment 1.

ADMIN RECCRD

SW-A-003296

1/7 AR-99-000044

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2 Level of detail required for regulator approval

DOE has propose the Building 123 PAM and Building 779 DOP as the appropriate level of detail for such documents.

Response: CDPHE and EPA agree to this approach. At our meeting in October, we provided you a list of required details. Based on the discussions at that meeting and at the subsequent Building 779 DOP meeting, we have revised the list, shown as Attachment 2. Of importance to us is the need to provide the detailed information in a timely manner, to allow for regulator review and approval. We should jointly determine what types of information received late in the process require formal public comment.

RFCA structured the regulator involvement and timely reviews based on the commitment of all Parties to a consultative approach. However, the DOE attorneys have disregarded the RFCA consultative approach by removing the DPP from the work group process. The DOE attorneys subsequently produced an unacceptable document containing little resemblance to the DPP scope, process or format to which the regulators had previously agreed, thereby delaying the development of a final DPP by at least six months. The current problems in regulator review of the DPP caused by DOE's working outside the RFCA process is an excellent example of how the D&D process should not be implemented in the future.

The regulators expect to be involved in various levels of detail relating to scoping, characterization, decontamination and waste management, among others. Just as DOE is currently unclear as to what activities they will have to perform to complete decommissioning, we are unable to predict our specific level of oversight. Therefore, formal and informal consultation and communication will be necessary and required throughout the project.

3 When are RFCA decisions required for Decommissioning?

DOE has proposed that regulators approve only conceptual documents with no detailed description of work or activities. Everything of meaning is considered to be outside RFCA and not subject to regulator approval.

Response: We are not prepared to accept this radical departure from what was negotiated in RFCA or what is required in our statutory authorities. RFCA creates an overall framework for site cleanup and closure within which the various authorities are coordinated. Thus, it is hard to imagine a building disposition activity as being "outside" RFCA. RFCA made allowance for those activities subject to other authorities, such as AEA regulation, where an MOU was negotiated with the DNFSB to define the transition of LRA from DNFSB to CDPHE or EPA, within the context of RFCA.

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The site is being cleaned up using CERCLA and RCRA authorities. When it is demonstrated that contamination is not present, then those activities transition out of regulator oversight, but are still conducted within the RFCA framework. To do otherwise would be to resurrect the early Rocky Flats problems of priority and funding conflicts. The overall process described in the Building Decommissioning Regulatory Process in Attachment 1 is consistent with the RFCA Building Disposition approach and accommodates the site's need to develop more experience in D&D before developing general procedures and RSOP's.

Of specific concern is the DOE proposal that it will conduct Recon Level surveys and inform the CDPHE and EPA when a building is regulated under RFCA. We remain adamant that all buildings are under RFCA until it is demonstrated, to the satisfaction of the LRA, that no significant contamination is present.

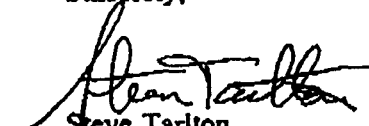
We are also concerned about the issue of mothballed buildings. DOE has maintained that regulators do not approve decisions to mothball facilities since this occurs prior to D&D, and RFCA doesn't regulate buildings prior to D&D. We maintain that if a building is to be mothballed, it clearly no longer has a mission under AEA jurisdiction and therefore falls under RFCA. Furthermore, most mothballed facilities will contain hazardous substances that are no longer being actively monitored or inspected. These substances pose a threat of release and are regulated under RFCA.


In your November 24 letter you requested comments on the DPP and referenced RFCA Paragraph 107 (suggest you check Paragraph 115). The comments in this letter have described what is required for a building process acceptable to the regulators.

In terms of a path forward for the completion of the DPP, you have agreed to meet next week to go over our comments. Following that, we expect that you will revise the building disposition documents in line with these comments. If you cannot accept these comments, you may dispute the rejection of the DPP. The RFCA dispute process requires the RFCA Project Coordinators to work together to clarify the dispute for subsequent consideration. If you want to initiate a dispute, I would suggest that you submit a draft of the issue in dispute to the RFCA Project Coordinators. Concurrently, you could work on those changes that are not disputed to minimize the delays in completing the decision documents.

Please contact us if you have any questions.

Sincerely,


Steve Tarlton
CDPHE


Tim Rehder
EPA

Attachment 1 - Building Decommissioning Regulatory Process**Step 1 Deactivation/End of Mission Turnover Report**

Required for all Type 1 and 2 buildings once their missions have ended, additionally, Type 3 buildings excluding activities for the purpose of SNM accountability and nuclear safety. The DPP should also include a list of each building's current mission and schedule for ending that mission.

Step 2 Decommissioning Scoping Phase with the Regulators

To discuss building specific conditions and procedures for eventual decommissioning. The scoping discussion can take place as part of the RLCR scoping step, followed by more discussion after the RLCR results. For DOP actions, the LRA will be invited as a non-voting participant in the Environmental Readiness Review team.

Step 3 Reconnaissance Level Characterization

The characterization will include, at a minimum, a review of building condition, preliminary hazard assessment, radiological and chemical contamination identification and characterization, and classification of each room/area per agreed upon method(s), possibly MARSIMS or other procedures.

Step 4 Submit Reconnaissance Level Characterization Report

RLCR summarizes the results of information developed. Provides an analysis of the results and summarizes the hazards and risks associated with them. Recommends DOE's building classification and provides adequate detail so that the LRA can make a determination as to the classification of the facility. To be submitted to the LRA at least fourteen (14) calendar days prior to building classification decision.

Step 5 Building Classification Decision

LRA determines appropriate building classification, subject to dispute if necessary. Once the classification is determined, each building will require the following regulatory involvement:

Type 1 Buildings

No additional regulatory involvement required*

Type 2 Buildings

Decision Document required
PAM, IM/IRA, etc.**

Type 3 Buildings

DOP

*No further regulatory involvement for Type 1 buildings provided an approved SOP for Asbestos abatement and/or PCB removal is utilized where necessary

**DOE has proposed to use Decision Documents in lieu of general procedures and RSOP's, until a track record of experience is gained. This proposal has been accepted by the regulators, but will be revisited within a few years. Future actions may be conducted using general procedures and RSOP's after public comment and regulatory approval

Step 6 Develop Project Plan Details

DOE is unable to provide some details for decommissioning activities in advance of project initiation. See Attachment 1 for required information to be provided to the regulators. Regulatory involvement with the detailed plans and procedures will occur as follows:

Type 1 Buildings

Made available to regulators upon request.

Type 2 Buildings

Submitted for LRA approval as the decision document or as an attachment to the decision document if conditionally approved

Type 3 Buildings

Submitted for LRA approval as the DOP or as an attachment to the DOP if conditionally approved

Step 7 LRA Approval/Modification/Disapproval of Decision Documents/DOP

Following required public comment period

Step 8 Implementation

During implementation, frequent status meetings with the regulators including frequent oversight inspections. Consultation with the regulators will occur throughout the process, particularly associated with scoping, characterization, and decontamination, waste management, and monitoring activities

Regulatory Process for Unexpected Issues - During the D&D process, the discovery of additional contamination (either type and/or amount) not previously described in the Reconnaissance Level Characterization Report may precipitate the reclassification of the building (e.g. a Type 1 building may be reclassified as Type 2). Any such reclassification will be conducted jointly by DOE and the LRA, and may require that a RFCA decision document be generated to cover the D&D of the building. In general, the discovery of radiologic contamination above free-release limits in a Type 1 building would cause the building to be reclassified as a Type 2 building. It is not expected that newly found contamination in Type 1 or Type 2 buildings would cause them to be reclassified as Type 3 buildings.

The discovery of unanticipated contamination may also require that modifications be made to existing RFCA decision documents pertaining to Type 2 and Type 3 buildings. Major and minor modifications to PAMs or IM/IRAs will require the approval of the LRA within the time frames discussed in paragraphs 126 and 127, respectively, of RFCA. If a RFCA Project Coordinator determines that newly discovered conditions necessitate a field modification to work be made immediately to avoid either an imminent threat to human health, safety or the environment, or undue and unnecessary delay, such modification will be made pursuant to paragraph 130 of RFCA.

Step 9 Close-Out

Transfer to Environmental Restoration per RFCA 118, including characterization data necessary for IHSS ranking

Attachment 2 - Project Plan Details

The individual facility project plans approved by the regulators must include details of the project necessary for project management and implementation. These details will be submitted to the LRA for approval as part of the decision document (e.g., PAM, IM/IRA or DOP) or as an attachment to the decision document for subsequent approval. The elements listed below are necessary for decision document approval:

- Project Justification - Specifically why project completion is needed at this time or how this project fits into the overall ISB logic
- Project Description
- Relationship of decommissioning effort to long-term remedial action objectives
- Brief history of the facility.
- Identification of type, magnitude and location of contamination to be removed
- Identification of RCRA units to be closed
- Summary of project activities
- Orders, regulations and laws that apply to project
- Facility disposition
- Building cleanup criteria or related action levels and how applied
- Waste disposal criteria
- Air and NPDES permits and monitoring requirements
- Contaminated property disposition.
- Project organization delineating responsibility throughout the project. Though not an enforceable component of the document, major changes in organization will be reported to the LRA.
- Environmental Management/Compliance
 - Specifically mention the Federal and State approvals needed for the project.
- Any RSOP or general procedures planned to be used in the execution of the project
- Hazard Assessment Summary
- Safety Analysis Summary
- Health and Safety requirements - Demonstration of appropriate health and safety provisions based on the RLCR hazard assessment and safety analysis
- Decontamination Plan - To include methods to be used for decontamination and sampling and analysis requirements. In addition, decision logic for determining amount of decontamination (i.e., how much effort should be utilized to decontaminate a TRU waste to a LLW, or mixed to non-mixed, etc.).
- RCRA Unit Closure Description Document - Specific plans for permitted or interim status RCRA units will be contained in a closure description document. The purpose of the closure description document will be to identify the method or methods to be employed, and the rationale for choosing those methods for the specific closure activity. The Closure Description Document will also define the extent of the unit or units, the type of closure to be performed (either partial or complete), the type of contamination to be addressed, decontamination method to be conducted, decontamination media to be used, the schedule for accomplishing the closure, and other applicable information associated with the unit closure activities.

- **Waste Management information** - to include at a minimum the amount of waste to be generated, the disposition of the waste and the process for characterization of the waste
- **Quality Management Requirements** - A description of how quality is verified and maintained including ongoing oversight activities and training requirements
- **Demolition Plan and Survey** - The process for demolition of the building/facility must be addressed and described in the document including necessary monitoring requirements
- **Technical Sequencing Requirements** - A flow chart which identifies the sequence of decommissioning activities throughout the process
- **Schedule** - A schedule must be included, which includes definite dates and activity logic
- **Spill/Release Controls** - To identify the monitoring requirements for detection of releases and/or spills and how they will be controlled
- **Risk Management Contingencies** - An analysis of possible unexpected problems and their effect on the project must be included along with potential contingencies to reduce effects of unexpected problems